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PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

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PATENT DEPT
DOW CORNING

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 71.1)

Date of mailing

(day/month/year)

02.04.2004

Applicant's or agent's file reference
DC5018PCT

IMPORTANT NOTIFICATION

International application No.
PCT/US 03/19372

International filing date (day/month/year)
19.06.2003

Priority date (day/month/year)
19.06.2002

Applicant
DOW CORNING CORPORATION et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:





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INTERNATIONAL COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference DC5018PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)																									
International application No. PCT/US 03/19372	International filing date (<i>day/month/year</i>) 19.06.2003	Priority date (<i>day/month/year</i>) 19.06.2002																								
International Patent Classification (IPC) or both national classification and IPC C09D183/04																										
Applicant DOW CORNING CORPORATION et al.																										
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>																										
<p>3. This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"><tr><td style="width: 5%;">I</td><td style="width: 5%;"><input checked="" type="checkbox"/></td><td>Basis of the opinion</td></tr><tr><td>II</td><td><input type="checkbox"/></td><td>Priority</td></tr><tr><td>III</td><td><input type="checkbox"/></td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td>IV</td><td><input type="checkbox"/></td><td>Lack of unity of invention</td></tr><tr><td>V</td><td><input checked="" type="checkbox"/></td><td>Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td>VI</td><td><input type="checkbox"/></td><td>Certain documents cited</td></tr><tr><td>VII</td><td><input type="checkbox"/></td><td>Certain defects in the international application</td></tr><tr><td>VIII</td><td><input type="checkbox"/></td><td>Certain observations on the international application</td></tr></table>			I	<input checked="" type="checkbox"/>	Basis of the opinion	II	<input type="checkbox"/>	Priority	III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	IV	<input type="checkbox"/>	Lack of unity of invention	V	<input checked="" type="checkbox"/>	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	VI	<input type="checkbox"/>	Certain documents cited	VII	<input type="checkbox"/>	Certain defects in the international application	VIII	<input type="checkbox"/>	Certain observations on the international application
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Date of submission of the demand 03.12.2003	Date of completion of this report 02.04.2004																									
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Kolitz, R Telephone No. +49 89 2399-8481 																									

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/19372**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-17 as originally filed

Claims, Numbers

1-15 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/US 03/19372

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	1-15
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US03/19372

Re item V:

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability, Article 33 (2) to (4) PCT; citations and explanations supporting such statement

D1: EP-A-1085066

1. The present invention relates to
an organopolysiloxane composition comprising
 - 100 pbw of at least one functional resin A (of formula I) comprising an amount of hydroxyl groups of from 0.2 to 5 wt% and an amount of T units of greater than 50 mole percent of the repeating units and
 - 10-120 pbw of a polydialkylsiloxane B (of formula II) comprising an amount of T units of zero or up to 0.05 mol % mole percent of the repeating units i.e. $b/a+b=0-0.05$ and
 - 10-150 pbw of at least one metal alkoxide catalyst C, see present claims 1-12. Present claim 13 relates to a method of preparing the composition and present claims 14 and 15 relate to a method of treating substrates with the composition.
2. The present application meets the requirements of Article 33 (2) PCT because the subject-matter of claims 1-15 is novel.
None of the documents of the prior art discloses a composition comprising the components A, B and C in the above mentioned relative amounts.

D1 discloses an organopolysiloxane composition comprising also components A, B and C. The relative amount of B and C to A is lower, however. In any case the amount of C in D1 is far below the range 10-150 parts by weight of undiluted metal alkoxide per 100 parts of resin A, see D1, the examples.

The subject-matter of claims 1-15 is therefore novel.

3. The present application meets also the requirements of Article 33 (3) PCT because the subject-matter of claims 1-15 is inventive.

D1 is considered to represent the closest prior art since it discloses a composition comprising all three components A, B and C. The aim of D1 is the provision of a further release coating composition for bakeware which provides release of baked

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US03/19372

goods in industrial bakeries.

The problem underlying the present application is different. It may be regarded as to provide a further impregnation composition for textiles and other substrates which render them mildew resistant, flame retardant and water and stain repellent.

No indication is given in the prior art that the specific composition as defined in claims 1-12 can be used to solve this problem.

None of the documents of the search report alone or in combination discloses or suggests such a composition, its production or its use as defined in the present claims.

Therefore the presence of an inventive step can be acknowledged for the subject-matter of claims 1-15 vis- à- vis the documents of the search report.

4. The present application meets the requirements of Article 33 (4) PCT because the subject-matter of claims 1-15 is also industrially applicable.